IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 18161 of 2004

Between:

S. Rajaiah, S/o Yellaiah,
Karimnagar, Karimnagar District.

..... PETITIONER

AND

1 Andhra Pradesh State Road Transport Corporation,

Rep. by VC& MD,Musheerabad, Hyderabad.

2 Depot Manager, Andhra Pradesh State Road

Transport Corporation, Karimnagar-I Depot,

Karimnagar, Karimnagar District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or directions more in the nature of Writ of Mandamus, declaring the Office Order No. 02/95(81) /95-KRMR-1 dt. 31-7-1995 is illegal and arbitrary and set aside the same with all consequential benefits including arrears of pay.

Counsel for the Petitioner : MR.P.GOVINDA RAJULU

Counsel for the Respondents: SMT.P.RAJANI REDDY(SC for APSRTC)

The Court at the admission stage made the following :

ORDER:

The petitioner is working as a conductor in the respondent-Corporation. He was issued a charge memo on 07-06-1995 and after receiving the explanation of the petitioner, the final orders were passed on 31-07-1995 imposing the penalty of reduction of one incremental stage for a period of two years with cumulative effect. The petitioner contends that he preferred an appeal and also a review petition against the order and they went against him. The petitioner questioned the order on the ground that though there is reduction of two increments with cumulative effect is a major penalty, the respondent passed the impugned order without conducting any enquiry as required under the rules. Therefore, the order is illegal and it is liable to be set aside.

The learned Counsel for the petitioner relied on a judgment of the Supreme Court in ***Kulwant Singh Gill v. State of Punjab(S.C.)***[1] wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without an enquiry. The petitioner therefore seeks to declare that the order is illegal and it is liable to be set aside. The petitioner after receiving the adverse orders slept over the matter for a period of 8 years. There are latches on his part in asserting his right regarding this issue. Though the impugned order is liable to be set aside on account of long lapse of time, this Court is of the view that it would be appropriate if the punishment imposed on the petitioner is treated as reduction of two increments without cumulative effect. The petitioner is not entitled for the difference of the amount if any by virtue of this order for the period from the date of the impugned order till the date of this order. But, he is entitled to get increments on notional calculation from the date of this order to which he is entitled, as he has been imposed penalty of reduction of two increments without cumulative effect.

The Writ Petition is accordingly disposed of.

Dr. G. Yethirajulu, J.

Dt:7th October, 2004.

Rns.

To

1 The Vice Chairman & MD,

Andhra Pradesh State Road Transport Corporation,

Musheerabad, Hyderabad.

2 Depot Manager, Andhra Pradesh State Road

Transport Corporation, Karimnagar-I Depot,

Karimnagar, Karimnagar District.

3. Two CD copies.